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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,301	05/24/2001	Larry Hamid	12-62 US	1343
25319	7590	01/19/2006	EXAMINER	
FREEDMAN & ASSOCIATES 117 CENTREPOINTE DRIVE SUITE 350 NEPEAN, ONTARIO, K2G 5X3 CANADA			TRUONG, THANHNGA B	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 01/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/863,301

Applicant(s)

HAMID ET AL.

Examiner

Thanhnga B. Truong

Art Unit

2135

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 December 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended:
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed December 27, 2005 have been fully considered but they are not persuasive.

Applicant argues that:

Li does not teach "providing a wireless gating signal for enabling wireless signals provided by the third party to access entity or service said access provided for a predetermined, limited period of time"

Examiner disagree with the applicant and still maintain that: Li teaches a system and a method employing a user's fingerprint to authenticate a wireless communication. The user's personal fingerprint is employed as the secret key in the context of a modified "challenge-response" scenario. The system includes a fingerprint capture module on a mobile personal wireless communication device (e.g., a wireless telephone) and a central authentication system coupled to a conventional mobile switching center. The central authentication system contains information that associates each mobile identification number ("MIN") with a particular user's fingerprint. When a wireless communication is to be initiated, the central authentication system engages in a challenge-response authentication with the mobile switching station or the wireless phone using the stored fingerprint associated with the MIN through the common air interface. The correct response from the mobile station will only be generated when the user's fingerprint entered through the fingerprint capture module attached to the mobile station matches the information sent from the central authentication system, and only calls placed from authorized users are connected (see Li's abstract). Thus, an authentication method implemented on the central authentication node may be characterized by the following sequence: (a) determining that the call has been initiated from a source; (b) determining whether source fingerprint data provided from the source matches stored fingerprint data associated with the source; and (c) if the source fingerprint data matches the stored fingerprint data, allowing the call to be completed. Matching may involve separate matching steps at both the source and the central authentication node. It may also involve decrypting a challenge. In addition to the above basic steps, the authentication node may request that the source fingerprint data be provided from the source of the call (column 3, lines 20-40, also refer to Figure 1 and column 6, lines 52-67 through column 7, lines 1-5). Furthermore, the format of the embedded fingerprint minutiae contains a timestamp specifying the time at which the user's fingerprint was taken. The CAS would then deny access if the timestamp was not from an appropriate window in time (chosen to allow for a reasonable delay between transmission of the challenge and receipt of the newly generated fingerprint token). If a person should intercept the user's fingerprint token, not only would he/she have to extract the fingerprint minutiae, but he/she would also have to properly update the timestamp in order defeat the system. In some embodiments, the CAS only checks for timestamp, rather than examining the newly received token for an exact match to some multiple previously received tokens (column 11, lines 60-67 through column 12, lines 1-7 of Li). Furthermore, the term "wireless gating signal" is just another term to activate and/or turn on/off signal through wireless communication Therefore, Li teaches the claimed subject matter.

Applicant further argues that:

Li and Diamant together do not teach or suggest all of the claimed features of the invention and hence do not support a prima facie case of obviousness.

Examiner again disagrees and still maintain that:

As mentioned above, Li does teach the claimed subject matter. Diamant teaches communication apparatus including a public network, a secured network, a plurality of public nodes connected to the public network and a plurality of secured nodes connected to the secured network and to the public network. The nodes including interfaces for communicating therebetween over the networks, wherein each the secured node includes a communication controller a computer system and a secured storage area. A secured node divides a confidential message into at least two segments and transmits the segments via the networks wherein at least a selected one of the segments is transmitted via at least one of the secured networks. The communication controller is also operative to disconnect the secured storage area from the computer station and the public network when the communication between the computer station and the public network is in progress (Diamant's abstract). Though Li is silent about setting a flag within the Central Authentication System (CAS) as shown in Figure 1, element 106, Diamant teaches, referring to Figure 8, steps 500 and 506 disclose the device sets a security flag to on and off (column 13, lines 21-42). Thus the combination between Li and Diamant teach the claimed subject matter.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the combination of teachings between Li and Diamant is sufficient.

Li and Diamant do not need to disclose anything over and above the invention as claimed in order to render it unpatentable or anticipate. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claimed limitations.

For the above reasons, it is believed that the rejections should be sustained.



KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100